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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,678	02/15/2002	John Stanley Taras	TAR-001	1674

7590 04/25/2003

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EXAMINER

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 04/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,678

Applicant(s)

TARAS ET AL.

Examiner

Jessica R Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 24-27 are written to depend from claim 22. It appears that the claims should be dependent on claim 23 instead.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 3, 5, 6, 10, 11, 12, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,030,162 to Huebner.

Regarding claims 1 and 16, Huebner discloses a fracture pin comprising a first portion having a first diameter and first threads of a first diameter (FIG. 20 intermediate portion 628, 928),

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said first portion having a tip (leading section 624) at one end and a second end, a second portion coupled to said second end of said first portion (trailing section 626, 926), said second portion having a second diameter larger than said first diameter, and second threads of a second thread diameter larger than said first thread diameter having a common pitch and thread depth (Column 9 lines 7-26), said second threads extending in a same direction as said first threads (FIG. 20); and a non-threaded shaft portion coupled to said second portion (FIG. 20 trailing extension 744), said shaft portion having a cross-sectional dimension which does not exceed a dimension of said second diameter.

Regarding claim 2, Huebner discloses that the first and second threads are continuous (Column 3 lines 36-38).

Regarding claim 3, Huebner discloses a plurality of cutting flutes (FIG. 2 teeth 36).

Regarding claim 5, Huebner discloses that the first portion has a length of approximately 2.55 inches and a first diameter of approximately .125 inch, and said second portion has a second length of approximately .6 inch and a second diameter of approximately .0015 inches (Column 5 lines 18-32).

Regarding claim 6, Huebner discloses that said shaft portion is substantially cylindrical (FIG. 20).

Regarding claim 10, Huebner discloses that said pin is not provided with a head portion (FIG. 20).

Regarding claim 11, Huebner discloses that all threads on said first portion have said first thread diameter (Column 4 lines 19-34).

Regarding claim 12, Huebner discloses that said pin is made of metal (Column 5 lines 9-17).

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Regarding claim 17, Huebner discloses a mill tool having structure adapted to remove bone (Column 5 lines 42-65).

5. Claims 1, 2, 4, 6, 10-14, 16, 18, 19, 21-23, 25, 27-29 and 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by PG-PUB 2003/0074002 to West, Jr.

Regarding claims 1, 16, 27, 29 and 30 West discloses a fracture pin comprising a first portion having a first diameter and first threads of a first diameter (FIG. 2), said first portion having a tip (FIG. 2) at one end and a second end, a second portion coupled to said second end of said first portion (FIG. 2), said second portion having a second diameter larger than said first diameter, and second threads of a second thread diameter larger than said first thread diameter having a common pitch and thread depth (Paragraph 0016, 0023 and 0040), said second threads extending in a same direction as said first threads (FIG. 2); and a non-threaded shaft portion coupled to said second portion (Paragraph 0041), said shaft portion having a cross-sectional dimension which does not exceed a dimension of said second diameter.

Regarding claims 2 and 28, West discloses that the first and second threads are continuous (Paragraph 0023).

Regarding claim 6, West discloses that said shaft portion is substantially cylindrical (FIG. 2).

Regarding claim 10, West discloses that said pin is not provided with a head portion (FIG. 2).

Regarding claim 11, West discloses that all threads on said first portion have said first thread diameter (FIG. 2).

Regarding claim 12, West discloses that said pin is made of metal (Paragraph 0045).

Regarding claims 13, 14, 18, 19, 21, 23, 25 and 31, West discloses a plurality of grooves (3) spaced apart 120° about said circumference of said second portion (FIG. 3).

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Regarding claims 22 and 32, West further discloses a mill tool adapted to remove bone and define an opening in the bone (Paragraph 0005).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huebner '162 in view of U.S. Patent No. 6,193,719 to Gournay et al.

Huebner discloses the claimed invention except for the frangible connection between the shaft and the second portion. Gournay teaches that a frangible portion is provided in order to break away the non-threaded shaft from the body of the screw. This portion is provided so that the screw will break at the frangible portion before breaking at any other location when torsional loads are applied that exceed a predetermined torsional magnitude (Column 1 lines 47-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a frangible portion on the device of Huebner in order to ensure that the shaft broke off after a predetermined force has been exceeded.

8. Claims 13, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huebner '162 in view of U.S. Patent No. 6,454,772 to Jackson.

Huebner discloses the claimed invention except for the plurality of grooves extending through the threaded portion, interrupting the threads. Jackson teaches that a plurality of grooves is

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provided on an upper portion of a screw to provide a means of removal of a screw after it has been installed (Column 3 lines 1-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Huebner with a plurality of grooves interrupting the threads in order to provide a means for removal of the screw, as taught by Jackson.

9. Claims 13, 15, 18, 20, 23, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over PG-PUB 2003/0074002 to West, JR. in view of Jackson '772.

West discloses the claimed invention except for the plurality of grooves extending through the threaded portion, interrupting the threads. Jackson teaches that a plurality of grooves is provided on an upper portion of a screw to provide a means of removal of a screw after it has been installed (Column 3 lines 1-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of West with a plurality of grooves interrupting the threads in order to provide a means for removal of the screw, as taught by Jackson.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to fixation pins and the like:

U.S. Patent No. 3,051,169 to Grath

U.S. Patent No. 5,743,912 to Lahille et al.

U.S. Patent No. 5,129,901 to Decoste

U.S. Patent No. 5,868,572 to Lazarra et al.

U.S. Patent No. 5,499,892 to Reed

U.S. Patent No. 6,004,349 to Jackson

U.S. Patent No. 5,562,671 to Goble et al.

U.S. Patent No. 6,302,888 to Mellinger et al.

U.S. Patent No. 5,713,705 to Grunbichler

WO 90/02526 to Blair et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Jessica R Baxter
Examiner
Art Unit 3731

jrb

jrb

April 18, 2003


MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700